

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 17352 of 1464 Harvard LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, to construct a multi-family (14 units) residential building in the R-5-B District at premises 1464 Harvard Street, N.W. (Square 2668, Lot 69).

**HEARING DATE:** June 19, 2005  
**DECISION DATE:** August 2, 2005

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B which is automatically a party to this application. ANC 1B submitted a report in support of this application. The Office of Planning (OP) also submitted a report in support of the application.

Based upon the record before the Board and having given great weight to the ANC and the Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 403 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.<sup>1</sup>

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<sup>1</sup> Although the Board concludes that the Applicant meets the three prongs of the variance test and that, therefore, the variance can be granted, there is still some uncertainty as to whether variance relief is necessary. The Board, stepping into the shoes of the Zoning Administrator and re-examining the issue, tends to agree with the Zoning Administrator's first interpretation that no such relief is necessary here. The Zoning Administrator, however, changed their interpretation and suggested that the Applicant needed a variance from lot occupancy. Without having the Zoning Administrator before it to explain the reasoning underlying this change of interpretation, the Board is lacking complete information and therefore does not dismiss this application as not needing relief. Instead, the Board has processed the


Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

**VOTE:**       **5-0-0**       (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II, and John G. Parsons to approve; Curtis L. Etherly, Jr. to approve by absentee ballot)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**ATTESTED BY:**

  
**JERRILY R. KRESS, FAIA,**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** AUG 03 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT

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application as presented, i.e., as a request for a variance and has made its determination based on the variance test.

DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**BZA APPLICATION NO. 17352**

As Director of the Office of Zoning, I hereby certify and attest that on AUG 03 2005 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr.  
Holland & Knight LLP, Suite 100  
2099 Pennsylvania Avenue, N.W.,  
Washington, D.C. 20006

Chairperson  
Advisory Neighborhood Commission 1B  
P.O. Box 73710  
Washington, DC 20056

Single Member District Commissioner 1B-07  
Advisory Neighborhood Commission 1B  
2647 15<sup>th</sup> Street, N.W.  
Washington, DC 20015

Zoning Administrator  
Dept. of Consumer and Regulatory Affairs  
Building and Land Regulation Administration  
941 North Capitol Street, N.E., Suite 2000  
Washington, DC 20009

Councilmember Jim Graham  
Ward 1  
1350 Pennsylvania Avenue, N.W.  
Suite 105  
Washington, DC 20004

Ellen McCarthy, Interim Director  
Office of Planning  
801 North Capitol Street, N.E.  
4<sup>th</sup> Floor  
Washington, D.C. 20002

Alan Bergstein  
Office of the Attorney General  
441 4<sup>th</sup> Street, N.W., 7<sup>th</sup> Floor  
Washington, DC 20001

**ATTESTED BY:**

  
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**JERRILY R. KRESS, FAIA**  
**Director, Office of Zoning** 